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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,570	07/24/2001	Roberto DeLima	RSW9-2000-0124-US1	5486

7590 05/23/2005	EXAMINER
Theodore Naccarella	PHILLIPS, HASSAN A

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ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-6 and 8-12* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-6 and 8-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. This action is in response to amendments and remarks filed on March 14, 2005, and March 30, 2005.

Drawings

2. Examiner has withdrawn all drawing rejections after considering Applicants amendments made to the drawings

Specification

3. Examiner has withdrawn all objections to the specification after considering Applicants amendments made to the disclosure.

Response to Arguments

4. Applicant's arguments filed March 14, 2005, and March 30, 2005, have been fully considered but they are not persuasive. Applicant argued that:

    a) Colby alone, or in combination with Applicants' Admitted Prior Art (AAPA), fails to teach or suggest use of affinity information, much less a means by which affinity information can automatically be provided to a load balancer; and,

    b) The prior art fails to disclose or make obvious a configuration file being stored in "local memory".

Examiner respectfully disagrees.

5. Regarding item a), Examiner submits that although Colby does not expressly teach the use of affinity information, the use of such information was well known in the art at the time of the present invention. Typically, load balancers use such information to direct client requests coming from the same IP address to the same server in a server cluster. Applicant acknowledges this fact in the disclosure, page 7, lines 14-21.

With regards to the affinity information being automatically provided to the load balancer, Examiner submits Applicant does not clearly express this in the claim language. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Nevertheless, Colby teaches a load balancer that is automatically provided (col. 6, lines 64-65) with various types of information from a plurality of servers, (col. 6, lines 36 through col. 7, line19). One of ordinary skill in the art would have readily realized that this information could also be affinity information since it was common at the time of the present invention to provide load balancers with such information.

6. Regarding item b), it is clear in the teachings of Colby that a configuration file is stored in the local memory of the servers, and accessed by the load balancer. In the teachings of Colby, the servers are periodically probed for information to keep the load balancer updated with information about the servers, (col. 6, lines 64-65, col. 7, lines 4-7). Colby clearly indicates that this information includes configuration information such

as the servers IP address, protocol, and port numbers by which the servers can be

accessed by the load balancer, (col. 6, lines 50-63).

7. Furthermore, the Examiner has interpreted the claim language as broadly as

possible. It is also the Examiner's position that Applicant has not yet submitted claims

drawn to limitations, which define the operation and apparatus of Applicant's disclosed

invention in a manner that distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims implies

the Applicant intends broad interpretation be given to the claims. The Examiner has

interpreted the claims with scope parallel to the Applicant in the response and reiterated

the need for Applicant to define the claimed invention more clearly and distinctly.

Accordingly the references supplied by the examiner in the previous office action covers

the claimed limitations. The rejections are thus sustained. Applicant is requested to

review the prior art of record for further consideration.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1, 3-6, 8-12, are are rejected under 35 U.S.C. 103(a) as being unpatentable over Colby et al. (hereinafter Colby), U.S. Patent 6,006,264 (supplied by applicant), in view of the Applicants Admitted Prior Art (AAPA).

10. In considering claims 1, 10, and 12, Colby teaches a method, computer readable product, and apparatus for performing load balancing of client requests among a plurality of servers (100a-c and 120a-b), the method, computer readable product, and apparatus comprising the steps of: for each one of the plurality of servers, creating and storing in a local memory a configuration file containing parameters pertaining to the server to be applied for configuring a load balancing scheme for a plurality of servers that include the server, wherein each of the configuration files is accessible to a load balancer (110), reading the parameters from the configuration file for each of the servers, and configuring the load balancer to dispatch client requests to the servers based on an algorithm using the parameters, (col. 6, lines 36-67, col. 7, lines 1-19).

Although Colby shows substantial features of the claimed invention, Colby fails to expressly disclose: the parameters comprising session affinity rules.

Nevertheless, session affinity rules were well known in the art at the time of the present invention. This is denoted by the Applicant in the Applicant's discussion of the prior art on page 7, lines 14-21.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Colby to show the parameters comprising session affinity rules. This would have provided the load balancer with necessary information needed to perform

load balancing efficiently, by associating multiple client requests from a single client to a

single Web site with each other.

11. In considering claims 3 and 11, it is implicit in the teachings of Colby that

each of the configuration files has a file path and name in accordance with a standard

file path and naming protocol. See col. 6, lines 36-67, col. 7, lines 1-19.

12. In considering claim 4, Colby teaches the parameters comprising at least a

health URL and content-based routing rules. See col. 6, lines 36-67, col. 7, lines 1-19.

13. In considering claim 5, it is implicit in the teachings of Colby that the content-

based routing rules comprise a URL mask. See col. 6, lines 36-67, col. 7, lines 1-19.

14. In considering claim 6, although Colby shows substantial features of the

claimed invention, Colby fails to expressly disclose: The parameters comprising time-of-

day rules.

15. Nevertheless, time-of-day-rules were well known in the art at the time of the

present invention. This is denoted by the Applicant in the Applicant's discussion of the

prior art on page 7, lines 1-13.

Thus, it would have been obvious to a person of ordinary skill in the art to modify

the teachings of Colby to show the parameters comprising time-of-day rules. This

would have provided the load balancer with necessary information needed to perform

load balancing efficiently.

16. In considering claim 8, Colby teaches the plurality of servers comprising a

server farm coupled to receive client requests via the Internet. See col. 3, lines 36-45.

17. In considering claim 9, Colby teaches the configuration file being an HTML

file. See col. 1, lines 59-65.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/
5/13/05

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER